PART 1

AN ORDINANCE relating to retroactively amending the Town Code Title 16, Land Use and Development Section 16.7.3.4.6 to correct a recodification error of omission in the July 26, 2010 revision of same, as more particularly set forth herein.

WHEREAS, The Kittery Town Council is authorized to enact this Ordinance, as specified in Section 2.07 (3) of the Town Charter and 30-A M.R.S. §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, safety and welfare, not intending for Ordinance to conflict with any existing state or federal laws; and

WHEREAS, the Council finds that the aforementioned error of omission in the July 26, 2010 recodification of the Town Code resulted in removal of language key to the Board of Appeals authority in exercising its duties and obligations;

WHEREAS, the Council finds the Maine Law Court has upheld zoning ordinance application retroactively in Kittery Retail Ventures, LLC v. Town of Kittery, 2004 ME 65, 856 A.2d 1183 (cert. den. 544 U.S. 906), where, in fact, a municipal land use ordinance amendment could be made effective on a date even earlier than the date on which the amendment was originally proposed; and

NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN CHARTER SECTION 2.14:

THE TOWN OF KITTERY HEREBY ORDAINS THE FOLLOWING ORDINANCE TO BE CODIFIED IN THE TOWN CODE, AMENDING AND REVISING TITLE 16, SECTION 16.7.3.4.6, WITH EFFECT FROM JUNE 28, 2011, AS PRESENTED.

Approved as to form: {NAME}, Town Attorney

INTRODUCED and read in a public session of the Town Council on the ___ day of _____, 20___, by:_____ {NAME} Motion to approve by Councilor_____ {NAME}, as seconded by Councilor _____ {NAME} and passed by a vote of _____-.

THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, Maine on the ___ day of _____, 20___, _____ {NAME}, Chairperson

Attest: {NAME}, Town Clerk